



18 APR 2008

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of TSELNER et al. :
Application No.: 10/581,373 : DECISION ON
PCT No.: PCT/DE04/02623 :
Int. Filing: 26 November 2004 : RENEWED PETITION
Priority Date: 03 December 2003 :
Attorney Docket No.: 6169555-0004 : UNDER 37 CFR 1.47(a)
For: FRESH CONCRETE AND ADMIXTURE :
FOR FRESH CONCRETE :

This is a decision on applicant's renewed petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 07 March 2008, to accept the application without the signature of the heir of deceased inventor Mikhail Tselner. Petitioner requests a two month extension of time, which is granted.

BACKGROUND

On 02 June 2006, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 29 January 2007, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration, in accordance with 37 CFR 1.497(a) and (b), and the English translation of the international application as filed along with the surcharge for filing the oath or declaration and the processing fee for filing the English translation after the thirty month period, was required. The notice set a two (2) month time period within which to reply. Extensions of time under 35 CFR 1.136(a) were available.

On 31 August 2007, in response to the 29 January 2007 Notification of Missing Requirements, applicant filed a petition along with a declaration, executed by the joint inventor on behalf of the nonsigning inventor, in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requesting the acceptance of the application without the signature of the sole heir of joint inventor Mikhail Tselner, alleging that Mr. Tselner's sole heir refused to sign the application.

On 07 November 2007, a decision was mailed dismissing the petition under 37 CFR 1.47(a).

On 07 March 2008, applicant filed a renewed petition along with a newly executed declarations identifying the deceased inventor, his sole heir and legal representative and the joint inventor.

DISCUSSION

Petitioner has now presented a renewed petition under 37 CFR 1.47(a) along with the declarations signed by sole heir of deceased joint inventor Mikhail Tselner. A review of the declarations reveals that the declarations identify and are executed by all the inventors named in the international application. The declarations state the residency, citizenship and mailing address of each inventor and the sole heir and legal representative of the deceased inventor. Thus, the declarations are acceptable and the requirements of 37 CFR 1.497(a) and (b).

The renewed petition under 37 CFR 1.47(a) is considered moot as declaration executed by the previously unavailable heir of the deceased inventor has now been submitted. The declarations are acceptable under 37 CFR 1.497(a) and (b).

CONCLUSION

For the above reasons, the renewed petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**. The declarations executed by the joint inventors and submitted on 07 March 2008 is in compliance with 37 CFR 1.497(a) and (b) and are acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **07 March 2008**.



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